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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/705,443	11/10/2003	John T. Waidner	DP-307920	4601
22851	7590	06/01/2005		EXAMINER
DELPHI TECHNOLOGIES, INC.			ELLINGTON, ALANDRA	
M/C 480-410-202				
PO BOX 5052			ART UNIT	PAPER NUMBER
TROY, MI 48007			2855	

DATE MAILED: 06/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/705,443	WAIDNER ET AL.
Examiner	Art Unit	
Alandra Ellington	2855	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on amendment dated 3/7/05.

2a) This action is **FINAL**.                                   2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-6 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-6 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 10 November 2003 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 4/11/05.

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_.

**Final Rejection**

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
2. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gaither (6,175,980) in view of McLaughlin (5,979,078).
  - a. With respect to Claim 1, Gaither discloses a bladder 42 made with an elastomeric material having a thickness in the range of  $\frac{1}{4}$  inch to 1 inch (col. 3 lines 30-52 {Figs. 3, 4}). However, Gaither's bladder 42 is potentially made of first and second sheets but it is not elaborated on. Moreover, using a cushion comprising a bladder with two sheets is known. For example, McLaughlin teaches a bladder with first and second sheets 40,45 of elastomeric material that are peripherally joined to form a closed volume that is filled with fluid (col. 3 lines 40-42, 59-66, col. 4 lines 17-35, 42-55, 64-67 {Fig. 3}). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Gaither with the teachings of McLaughlin to include a bladder with first and second sheets of elastomeric material for the purpose of forming a cushioning device with an impact response that takes into consideration both adequate shock absorption and sufficient resiliency (see McLaughlin, col. 1 lines 38-41).

- b. With respect to Claims 2 and 5, Gaither discloses a similar range (col. 3 lines 30-52 {Figs. 3, 4}).
- c. With respect to Claims 3 and 4, McLaughlin teaches that any of the sheets can be known as the upper or lower sheet (col. 3 lines 40-42, 59-66, col. 4 lines 17-35, 42-55, 54-67 {Fig. 3}).
- d. With respect to Claim 6, Gaither discloses a thickness in a similar range (col. 3 lines 30-52 {Figs. 3, 4}). McLaughlin teaches an annular sheet 50,55 of elastomeric material peripherally joining the first and second sheets 40,45 of elastomeric material to form a closed volume, the annular sheet being seam welded to peripheral portions of the first and second sheets 40,45 (col. 4 lines 42-55 {Fig. 3}).

***Response to Arguments***

- 3. Applicant's arguments with respect to claims 1-6 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

- 4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).
- 5. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee

pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alandra Ellington whose telephone number is (571) 272-2178. The examiner can normally be reached on Monday - Friday, 7:30am - 4:00pm.
7. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Lefkowitz can be reached on (571) 272-2180. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.
8. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Art Unit 2855

ane



MAX NOORI  
PRIMARY EXAMINER